



Rules and Ancillary Document Review Checklist
(This form must be filled out electronically.)

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-12-115 Personality – Taxable situs – In general**

WAC 458-12-120 Situs of personalty—Beer Kegs

Date last adopted: **April 29, 1968**

Reviewer: **Joseph D. Simmonds**

Date review completed: **November 20, 2000**

Is this document being reviewed at this time because of a taxpayer or business association request? (If “YES”, provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an “x” in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Explain the goal(s) and purpose(s) of the document: The goal and purpose of WAC 458-12-115 is to inform taxpayers and county assessors where the physical situs of goods in intrastate, interstate, and foreign commerce are to be assessed (if assessable) on the assessment date.

The goal and purpose of WAC 458-12-120 is to inform taxpayers and county assessors the situs requirements of beer kegs owned by Washington breweries and those owned by out-of-state breweries.

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it? (E.g., Is it necessary to comply with or clarify the application of the statutes that are being implemented? Does it provide detailed information not found in the statutes?)
	X	Is the document obsolete to a degree that the information it provides is of so little value that the document warrants repeal or revision?
	X	Have the laws changed so that the document should be revised or repealed? (If the response is “yes” that the document should be repealed, explain and identify the statutes the rule implemented, and skip to Section 10.)
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington’s citizens? (If the response is “no”, the



		recommendation must be to repeal the document.)
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Please explain. **The WACs are necessary to further explain the intent of RCW 84.44.010 and RCWs 84.36.140 through 84.36.191.**

Both WACs need some revision, but they are not obsolete to a degree necessary to repeal. While chapter 301, Laws of 1994, deleted some language from RCW 84.44.010, this statutory language is not addressed in WAC 458-12-115 or 458-12-120.

3. Related ancillary documents, court decisions, BTA decisions, and WTDs: Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an ancillary document. Excise Tax Advisories (ETAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered ancillary documents.

(a)

YES	NO	
	X	Are there any ancillary documents that should be incorporated into this rule? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any ancillary documents that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this ancillary document be incorporated into a rule?
		Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) that affects the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

If the answer is “yes” to any of the questions in (a) or (b) above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document. **There were no ancillary documents found or reviewed pertaining to either one of these WACs.**

**4. Clarity and Effectiveness:**

YES	NO	
	X	Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate? (If no, identify the incorrect citation below and provide the correct citation.)
X		Is the document providing the result(s) that it was originally designed to achieve? (E.g., does it reduce the need for taxpayers to search multiple rules or statutes to determine their tax-reporting responsibilities, help ensure that the tax law and/or exemptions are consistently applied?)
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do any administrative changes within the Department warrant repealing or revising this document?

Please explain:

WAC 458-12-115 explains how taxpayers and assessors can determine situs when the goods are in various forms of transit. WAC 458-12-120 explains how the situs of beer kegs is determined when owned by in-state and out-of-state breweries.

Subsection (3) of WAC 458-12-115 provides a definition of the term “in-transit”, which is used throughout the rule. This definition should precede the information provided in Subsection (1).

The latest cite of any court case or AGO is 1958 with most prior to the 1930’s (and many prior to 1900). These decisions and opinions are all prior to the last rule revision, and are no longer necessary. These should be removed in the next rewrite of this rule. Otherwise this rule is clearly and concisely written but not in a format consistent with that now preferred by the department. It does not have an introduction.

The information provided in these rules can be more effectively presented if combined into a single rule as both provide important information to the county assessors and taxpayers regarding the situs of taxable personal property.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document? (Cite the statutory authority in the explanation below.)
X		Is the document consistent with the legislative intent of the statutes that authorize it? (I.e., is the information provided in the document consistent with the statute(s) that it was designed to implement ?) If “no”, identify the specific statute and explain below. List all statutes being implemented in Section 9, below.)
	X	Is there a need to recommend legislative changes to the statutes being implemented by this document?



Please explain. **RCW 84.08.070 gives the department statutory authority to adopt this rule.**

RCW 84.08.010 gives DOR general supervision and control over the administration of the assessment and tax laws of the state.

RCW 84.44.010 requires property to be listed and assessed where situated.

RCW 84.36.140 through 84.36.191 lists the property that is exempt when entered into the various forms of commerce.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain. **No other federal or state agency deals with or supervises the administration of the property tax program. The department works with county assessors during the rule- making activities for this program to prevent chances of developing inconsistent rules.**

7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs? (Answer "yes" only if a Cost Benefit Analysis was completed when the rule was last adopted or revised.)

Please explain. **This is an interpretive rule that requires no additional burden not already imposed by statute.**

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated



		community?
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Please explain: **These rules apply to all effected taxpayers and county assessors in a uniform, consistent, and equitable manner.**

9. LISTING OF DOCUMENTS REVIEWED: (Use “bullets” with any lists, and include documents discussed above. Citations to statutes, ancillary documents, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **RCW 84.44.010 Situs of personalty generally. Requires that personal property be listed and assessed in the county where situated unless otherwise required in this title.**

RCW 84.36.140 through RCW 84.36.191 establishes the exemptions of certain goods entering into inter, intra or foreign commerce.

Ancillary Documents (i.e., ETAs, PTBs, and ADs): **N/A**

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs): **N/A**

Attorney General’s Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

Det 99-238, 18 WTD 466 (1999), was reviewed. However, the issues addressed whether use tax (chapter 82.12 RCW) is due on beer kegs and whether beer kegs are returnable beverage containers. This document did not address the situs of beer kegs for the purpose of property taxes.

BTA Docket numbers 78-62 through 78-70 dealt with the assessability of beer kegs not their situs.

10. Review Recommendation:

☒ Amend

☐ Repeal



- _____ Leave as is
- _____ Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)
- _____ Incorporate ancillary document into a new or existing rule. (Subject of this review must be an ancillary document and not a rule.)

Explanation of recommendation: (If recommending an amendment of an existing rule, provide only a brief summary of the changes you've identified/recommended earlier in this review document.) **Consolidate and amend WAC 458-12-115 and WAC 458-12-120 to remove the old cites that are no longer useful and relocate the definition of "in transit" to the beginning portion of WAC 458-12-115.**

11. Manager action: Date: _____

_____ Reviewed recommendation _____ Accepted recommendation

_____ Returned for further action

Comments: